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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,445	09/30/2003	Osamu Seshimoto	JG-TT-4854C-2	4129
7590 04/23/2004				
Jules E. Goldberg, Esq. REED SMITH LLP 599 Lexington Avenue New York, NY 10022		EXAMINER SORKIN, DAVID L		
		ART UNIT PAPER NUMBER 1723		

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,445

Applicant(s)

SESHIMOTO ET AL.

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/287,424.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17:2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "buffer tank", "suction line" and "mechanism for moving ... the connector in a vertical direction" must be shown or the features canceled from the claims. No new matter should be entered.
2. Fig. 1 is objected to because it shows that first the blood unit is connected to the connector, then the blood units is release from the connector, and after the blood unit is released, blood disappears from the reservoir. In contrast, the specification states that blood is suctioned while the unit is attached to the connector.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "1" has been used to designate both the manifold and (Figs. 1 and 2) and an unknown item in Fig. 6.
4. Fig. 1 is objected to because the lead line of reference character "8" lead to nothing.
5. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities: The rack is inconsistently referred to as 6 (page 16, line 8), but 9 elsewhere. The inner wall is inconsistently referred to as 20 (page 18, line 7), but 22 elsewhere. The discharge port

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is inconsistently referred to as 50 (page 20, line 2), but 52 elsewhere. The following apparent spelling errors are noted: "successibly" vs. successively? (page 2, line 18), "squire" vs. square? (page 8, line 19), "polysultone" (page 10, line 25), "pure" vs. pore? (page 11, line 14) and "plystyrene" (page 14, line 20). The meaning of the symbol following "20 mm" is unclear (page 12, line 6). The spaces in the phrase "of 20. 1 mm" make it unclear (page 19, line 7). The disclosure contains many instances of non-standard or unclear English; the follow examples are found to be particularly objectionable: "in site" (page 1, line 15), "it has been investigated to...filtration" (page 1, lines 16-17), "except a part of items, such as blood sugar" (page 1, line 27), "continuously or intermittently" vs. continuous or intermittent (page 6, line 20 and page 8, lines 17-18), "closed" vs. closes (page 6, line 23), "more fast" (page 10, line 5), "in a state of detachable" (page 15, line 1), "with airtight state" (page 15, lines 13-14), and "rotating the manifold 1 round slowly" (page 16, line 10).

Appropriate correction is required.

Claim Objections

7. In claim 8, the phrase "which further comprising" should read -- which further comprises -- or -- further comprising--.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. The claims must be made more clear as to whether or not "blood" is a required element of the claimed structure. The claimed invention should not be referred to as an "apparatus" if "blood" is a required element of the claimed invention. See MPEP 2115. If applicant desires that "blood" not be required, in claims 1 and 2 the phrase "which contains a blood sample" should be to, for example, - -which is capable of containing a blood sample - -.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 1, 2, 4, and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferkany (US 5,262,049) in view of Krasnoff (US 5,690,815).

Regarding claim 1, Ferkany ('049) discloses a blood apparatus comprising a plurality of

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blood reservoirs (10), which can be lifted vertically by gripping device (30) (column 13, lines 46-48), in each of which a suction nozzle (42) has been put. The reservoirs are conveyed by an endless conveyor (212) (column 12, line 14) and each suction nozzle (42) is connected to a suction line through connector pipe (48) (column 6, lines 34-42). Ferkany ('049) does not disclose blood filter units. Krasnoff ('815) teaches blood filter units (12, 13, and 17). It is considered that it would have been obvious to one of ordinary skill in the art to modify the blood apparatus of Ferkany ('049) to include the blood filters taught by Krasnoff ('815), since Ferkany ('049) suggests the use of his device in the context of separating blood components from serum (column 1, lines 19-33), and Krasnoff ('815) teaches the refinement of blood components in an automated system. Regarding claim 2, Ferkany ('049) discloses a blood apparatus comprising a plurality of blood reservoirs (10), which can be lifted vertically by gripping device (30) (column 13, lines 46-48), in each of which a suction nozzle (42) has been put; the reservoirs are conveyed by an endless conveyor (212) (see column 12, line 14) and each suction nozzle (42) is connected to a branch of a manifold (fig. 8), which is connected to a suction line. The manifold is linear and can also change vertical position (instant claim 4). The connection can change vertical position (instant claim 6). The blood reservoirs are held by rack (80) (instant claim 7). A grasping mean (30) elevates the blood reservoirs (instant claim 8). Ferkany ('049) does not disclose blood filter units, couples of valves and connectors, and (as in instant claim 9) filtration in the upward direction. Krasnoff ('815) teaches blood filter units (12, 13, and 17), valves in suction lines (61, 62, 63, and 64), and filtration in a generally upward direction. It is considered

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that it would have been obvious to one of ordinary skill in the art to modify the blood apparatus of Ferkany ('049) to include the blood filters connected to valves and for blood filtration to occur in an upward direction as taught by Krasnoff ('815), since Ferkany ('049) suggests the use of his device in the context of separating blood components from serum (column 1, lines 19-33), and Krasnoff ('815) teaches the refinement of blood components in an automated system.

13. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ferkany ('049) as applied to claim 2 above, and further in view of Takaharhu (US 5,602,348). Claim 3 has the additional limitation of a buffer tank. Takaharhu ('348) teaches a buffer tank (29). It is considered that it would have been obvious to one of ordinary skill in the art to have added the buffer tank of Takaharhu ('348) to the suction line of Ferkany ('049), to maintain a more continuous flow as taught by Takaharhu ('348) (see column 3, lines 44-48).

14. Claim 5 rejected under 35 U.S.C. 103(a) as being unpatentable over Ferkany ('049) as applied to claim 2 above, and further in view of Bond (US 3,827,286). Claim 5 has the additional limitation of a manifold of ring form which can be rotated. The manifold of Ferkany ('049) can be rotated, but Ferkany ('049) does not disclose a manifold of ring form. Bond (US 3,827,286) teaches a ring manifold, which can also be rotated. It is considered that it would have been obvious to one of ordinary skill in the art to substitute the ring manifold of Bond ('286) for the linear manifold of Ferkany ('049), especially since the Bond ('286) suggests the use of the manifold in the suction

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of blood samples and teaches rotating ring manifolds as a substitute for linear manifolds (see column 3, line 35-40).

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Sorkin

David L. Sorkin
Examiner
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